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Law Versus Practice In Interstate Travel

To the casual observer, no change in the segregation pattern seems more spectacular than that in interstate railway travel. Not long ago absolute segregation was the rule on all trains traveling through the Southern states. Today, on these same routes it is almost a rarity not to see at least a few Negroes scattered through the once all-white coaches, Pullmans, and diners. It is even more of a rarity to encounter evidence of racial friction among the passengers. The new policies have been accepted by the public as matter-of-factly as the old ones.

But the uninitiated observer may miss a great deal. Seeing Negro and white passengers in the same cars, he may conclude that railway segregation is virtually a thing of the past. It would not likely occur to him to make his way forward to Car 1. If he did, he might be astonished to find Negro passengers crowded into a "Jim Crow" coach, in the old tradition. And if he pursued his investigation further, he would discover that a host of discriminatory practices — some open, some subtle and indirect — still plague the Negro traveler.

A carefully documented report of these inequities has recently been issued by Dr. Herman H. Long of the Race Relations Department, American Missionary Association, Congregational Christian Churches, at Fisk University. Entitled "Segregation in Interstate Railway Coach Travel," the report is based on the first-hand experiences and observations of field personnel, white and Negro, who kept careful records of approximately 28,000 miles of rail travel in 1949 and 1950. The result is something different from and more valuable than the usual indictment of segregation. Instead of broad arguments against segregation in general, we are given a detailed dissection of segregation practices in a specific field and their effects in human terms.

PERCENTAGES AND PEOPLE

This approach is especially useful because it puts the main emphasis on what happens to individuals rather than the group as a whole. In rail travel, as in other areas of public life, the practitioners of segregation have pitched their defense on the "group" basis. They have sought to show that, percentage-wise, the Negro group has

been allotted a fair share of space and facilities. But increasingly the critics of segregation have succeeded in demonstrating to courts and administrative bodies that the issue is not races and percentages, but discriminations suffered by individuals.

A good example is the Arthur W. Mitchell case, decided in 1941. Congressman Mitchell, a Negro, sued the railroad for denying him Pullman accommodations, although he held a first-class ticket. The company argued that all of the first-class accommodations set aside for Negroes were occupied and that the normal Negro demand was too limited to warrant setting aside more. The Supreme Court held that this defense was not valid, since the right to equal accommodations is a personal one and cannot be made contingent on the number of Negroes seeking it. "The comparative volume of traffic," said the court, "cannot justify the denial of a fundamental right of treatment, a right specifically safeguarded by the provisions of the Interstate Commerce Act."

FALLEN BARRIERS

This significant decision spelled the beginning of the end for discrimination in Pullman travel. Today, there are few remaining barriers to first-class reservations by Negroes and those are mainly occasioned by the private prejudices of ticket agents or other railroad personnel. The same may be said of dining car facilities. Several court actions, culminating in the Henderson decision of 1950, established the principle that a passenger, of whatever race, must be served in due turn if there is an empty seat in the diner. It is not enough, said the court, to set aside separate facilities sufficient to accommodate the average number of Negro diners; for "it is no answer to the particular passenger who is denied service at an unoccupied place in a dining car that, on the average, persons like him are served."

COACHES UNTOUCHED

Dr. Long points out, however: "For the most part, the train facility that involves the largest segment of the passenger travel, coach accommodations, has been left untouched by these desegregation developments. Interstate railway carriers serving Southern areas still maintain, for the most part, completely disparate policies and practices toward Negro interstate passengers, even on the same train, depending upon whether they are first class or coach accommodations. The existence of state laws of segregation is no longer the absolute factor; they are made to apply in the operation of one set of practices and not to apply in another."

There is scarcely any legal basis for this distinction between first-class and coach accommodations. The Interstate Commerce Act, which governed in the Mitchell and Henderson cases, is clearly applicable to coach travel. It forbids public carriers in interstate commerce "to subject any particular person . . . to any undue or unreasonable prejudice or disadvantage whatsoever." In the Irene Morgan case (1946), the U. S. Supreme Court held this to mean that the State of Virginia had no power to require segregated seating on motor buses which operate across state lines.

"As there is no federal act dealing with the separation of races in interstate transportation," declared the court, "we must decide the validity of this Virginia statute on the challenge that it interferes with commerce, as

a matter of balance between the exercise of the local police power and the need for national uniformity in the regulations for interstate travel. It seems clear to us that seating arrangements for the different races in interstate motor travel require a single, uniform rule to promote and protect national travel."

LAST LEGAL DEFENSE

What applied to motor carriers could be assumed to apply equally to rail transportation. But the Morgan case left one question still unanswered: Is it lawful for interstate bus and rail lines to do what the states cannot do — that is, enforce regulations of their own requiring segregation? Only last November, the Supreme Court upheld a lower court decision outlawing such a regulation, in the case of Chance v. Lambeth. The suit was brought in 1948 by William Chance, a Negro school principal of Parmalee, N. C. While traveling as a coach passenger between Philadelphia and Rocky Mount, he was requested at Richmond to move to identical accommodations in an all-Negro car. The request was based on company regulations requiring segregation. Chance refused to move and was put off the train.

The case was first heard by a Federal district judge in Virginia, who ruled in favor of the railroad. However, the Circuit Court of Appeals in Richmond reversed the decision, holding that the company regulation requiring segregation was an unlawful burden on interstate commerce: "When white and colored passengers are permitted to ride together for part of their journey through the State of Virginia, and then are compelled to separate and change cars, and when passengers in coaches are segregated on account of race while passengers in Pullman and dining cars are permitted to ride together irrespective of race, the burden upon interstate commerce is as clearly manifest as that imposed by the statute of Virginia which was invalidated in the Morgan case."

Legally, then, there is no longer any defense of segregation on interstate railroads. But in practice the situation is by no means settled. Before the court decision can become fully effective, a great deal of inertia and resistance will have to be overcome. The railroads not only must revise their policies to conform to the new standards, but must also wage a vigorous educational campaign among their employees. Only the most determined company action can insure that nondiscriminatory procedures will be followed by railroad personnel, from ticket agent to conductor.

So far, there is scant evidence of such determination. Railroad practices have as yet shown little improvement over the confusing and contradictory conditions discussed in Dr. Long's report. Following is a brief summary of some of the chief forms of discrimination described in "Segregation in Interstate Railway Coach Travel."

ALLOTMENT OF SPACE

Coach passengers on Southern trips may be segregated in one of several ways, depending on the particular railroad and train involved. If the point of origin is outside the South, Negroes may either be seated in a "Jim Crow" car from the start, or be required to change to one at Washington, D. C., St. Louis, or some other transition point. In other cases, Negro passengers boarding the train outside

the South are not segregated at any time, while those boarding below the Mason-Dixon line are uniformly seated in the all-Negro Car 1. Contrariwise, those boarding North-bound trains at Southern points may be segregated for the first part of the trip only.

Almost without exception, the space designated for Negroes is in the first car. A certain amount of flexibility is sometimes provided by means of a divided second car, the front half of which may be used for overflow of Negro passengers. Such adjustments are by no means automatic, however, since they are entirely at the discretion of the conductor, who may or may not care to make them. Thus the space in Car 1 may be considered the only reliable quota of seating for Negro passengers.

OVERCROWDING

In the sample study by Dr. Long and his staff, the cars occupied by Negroes represented 18.4 per cent of the total. On the face of it, this may seem a fairly liberal quota, since the average proportion of Negro passengers to the total was 16 per cent. But these are average figures which do not reflect the actual distribution of passengers on specific trips. In 13 out of 42 trips, the proportion of Negro passengers exceeded the 18.4 per cent quota, and in several instances was two to four times as great. On a few trips, the reverse was true: the number of white passengers exceeded the quota of seats allotted to them, while seats in the all-Negro car went unoccupied. As might easily be predicted, the fixed quota system proved grossly inadequate as a means of preventing discrimination and hardship to individual passengers.

The arrangement was even less equitable on the reserved-seat trains, taken separately. Though this class of facilities represented 54 per cent of the total space in the sample, Negroes were allotted only 7.2 per cent. This is particularly significant in view of the fact that the reserved-seat trains are the fastest and most modern of coach facilities and are growing in use on all rail lines. The relatively small quota of seats allotted to Negroes, therefore, puts an absolute ceiling on the number who may secure these more desirable accommodations.

QUALITY OF ACCOMMODATIONS

In no field is the impracticability of "separate but equal" more obvious than in train travel. Since segregation narrowly limits the Negro passenger to the facilities designated for his race, he has no choice as to the seating comfort, ventilation, lighting, lounging, and toilet space available in other sections of the train. If the so-call "Jim Crow" facilities are inferior in these respects to any found elsewhere on the train, then obviously equality does not exist. Short of integration, the only sure way to avoid discrimination in quality would be to set aside the very best facilities on the train for Negroes. Not only have the railroads failed to do this, but they have customarily chosen the oldest, least modern, and least comfortable cars for Negro use.

For purposes of comparison, Dr. Long's observers rated the coaches in four categories: de luxe, modern, ordinary, and antiquated. Thirty-six per cent of the white coaches were of the de luxe type, as compared with 23 per cent of the Negro coaches. The two groups had the same percentage of cars classified as modern. Thirty-two per cent of the Negro coaches were

rated as ordinary and antiquated, as compared with 18 per cent of the white coaches. (Negroes had a monopoly on the facilities classified as antiquated.) With some exceptions, the reserved-seat trains show up much better than average; facilities throughout these trains are usually of high quality — including the Negro car. But it must be remembered that Negroes encounter greater difficulty in securing reservations on most of these trains, since facilities for them are sharply limited.

PASSENGER TREATMENT

The double standard applied to Negro coach passengers is described as follows by Dr. Long:

"The entire pattern of administering train services to the Negro public within the South and on Northern trains whose terminus is the South, is geared to segregation. This ranges all the way from the purchase of a ticket, to use of station facilities, passing through admission gates to the train, boarding the train, and to the train trip itself. The administration of segregation is done by a number of functionaries, including ticket sellers and reservation clerks, gate attendants, conductors, brakemen, porters, and even red caps.

"All of these persons operate under orders and customary expectations and procedures, with more or less absolute authority for their areas of responsibility but within an hierarchical authority system which has the conductors, ticket and passenger agents at the top . . . Many of the practices which ensue from this authority system, hinged not only to the necessity of segregation but also the impulse of white superiority, are punitive in their impact upon the Negro public. This covers such things as brusqueness of manner, referring to passengers as "boy" or similar titles, failure to give adequate information or giving necessary information grudgingly.

"Probably the best example of the extreme to which these practices are taken is afforded by occasions when Negro passengers must purchase tickets at Southern terminals. All station facilities of the South have separate accommodations for white and Negro passengers, and in many instances this includes not only separate waiting and rest rooms, but also separate ticket windows and stairways for entering and leaving the train platforms. The arrangement is such that the Negro passenger has no occasion to go into the general or white waiting room, and to enter upon such territory by accident, necessity or ignorance, may result in trouble.

"Since the Negro passenger must therefore buy his ticket from the window facing the Negro waiting room, he must, perforce, suffer the uncertainties of being noticed by the ticket agent and having the agent decide to serve him. The uncertainties turn into occasions of undue hardship and discrimination, for it is commonly reported that agents will often ignore the waiting Negro client, deciding to render service at his own leisure and after all white clients have been sold tickets."

RESERVED-SEAT TRAINS

The manipulation, deception, and subterfuge involved in enforcing the segregation policy on reserved-seat trains are truly formidable. Here are some of the common techniques, as described by Dr. Long:

"One fairly general method used by

ticket offices in complying with requests for seat reservations via the telephone, particularly in Southern areas, is to assure the potential passenger that space is available, telling him to pick up his reservation at a certain time before train departure. Thus, it is not until the individual appears at the ticket office that specific seat assignments are finally made. The juggling of seat assignments according to the racial identity of the passenger may and does occur at this point. This avoids raising the racial issue between the agent and passenger over the phone and in the transaction, although Negro passengers have raised objections out of Northern points, when they see that they are being put into a segregated car. It has the distinct disadvantage, however, of the agent having to refuse issuance of a reservation or to give seat space in a white car, when the passenger appearing before him happens to be a Negro and the limited space of the Negro car is filled.

OTHER TECHNIQUES

"Partly because of this kind of complication, as well as for other reasons, agents follow other kinds of practice designed to obtain the racial identity of the person requesting seat space over the telephone. In the Southern cities, and occasionally in Northern and border points, the passenger may be asked, 'Are you colored or white?' or 'Do you want space in the Negro car or white car?' or just 'In what car do you want space?' All of these, of course, are direct efforts to allot seat reservations on the basis of race. The Negro passenger, not wishing to enter into argument with the agent or to say anything which would prevent his getting space and proceeding with the trip is inclined to comply.

"At Northern points, and most notably out of the Chicago area, more subtle measures are used for getting the racial identity of the persons requesting seat space via the telephone. At the initial phase of the conversation, just after space has been asked for a given reservation-seat train going to the South, the agent may ask from what hotel, address, or phone the passenger is calling. This is always done before the agent indicates whether or not space is available on the train. Since the inference is that it may be necessary to call the passenger back, in the event that there is not space or that some may be released, the passenger will give the requested information.

"Yet this is not a service given by railroad reservations offices, as is the case with airlines. The passenger has to take the initiative in checking and re-checking reservation openings. Since about eight out of every ten Negroes in Chicago live in the densely settled southside area, and since the telephone exchanges and the number prefixes rather clearly define these areas, it is relatively easy to ascertain whether it is a Negro or white passenger seeking a reserved seat. Other possible clues may escape in the conversation which will enable the agent to reduce the possibility of making an erroneous identification.

SPACE CHANGES

"There is bound to be a small proportion of errors in this procedure, but it is always possible to make a correction when the passenger appears at the ticket window to pick up his space and ticket. Investigators reported from their experience that this may be done in one of two usual

ways: (1) by making a direct shift in the reservation, or (2) pretending a conflict exists on the original assignment.

"In the former case, the agent will check with the reservations clerk, appearing to be merely making a routine check on the space but actually arranging for a transfer of the space to the segregated car. No questions are raised with the passenger, and when he is handed his ticket and reservation enclosed in an envelope, presumably everything is in regular and good order. Later, in casually looking through the envelope or presenting his space ticket for checking by the conductor or passenger agent, he will discover that his seat is in a different car — Car 1 or its equivalent for Negro passengers going into the South. It is too late for protest or modification, and the urgency of being on the train and completing the trip is immediate.

"In the second case, the agent will ask the passenger what space had been reserved for him. If the passenger is not quite sure or haltingly indicates the space, the agent may say, after conversation with the reservations clerk, that the passenger is probably in error and that the space reserved for him is in Car 1 or its equivalent. On the other hand, if the passenger knows clearly what car and seat space he has and appears confident of this knowledge, the agent will effect a transfer by simply saying that the clerk must have made an error, because a previous commitment had been made for the space. He will add reassuringly, however, that there does happen to be space available in Car 1 or its counterpart and that fortunately the passenger can have it.

"Even if the segregation sieve still fails to catch one or two Negro passengers, there is a final measure of a direct nature which can be effected while the train is en route. This is simply for the conductor to change the Negro passenger to the segregated car at the point on the trip where the Mason-Dixon Line is reached. Although this is a usual procedure on the non-reservation trains, it is a somewhat hazardous undertaking for these trains, since the reserved space is for the entire trip from point of departure to destination. Suits of complaint and damage against the railroads by disaffected Negro passengers have grown out of this kind of situation. Conductors now make the changes hesitatingly, if at all, and they do so after assessing the Negro passenger and the situation quite carefully. . . .

IMPONDERABLES

"The administrative details involved not only have the character of the picayune and arbitrary, but they also show the extremes of subterfuge and misrepresentation to which segregation policy unavoidably leads in transactions with the Negro public. And there are the imponderables of the effects of these practices upon the individuals toward whom they are directed — the uncertainty of getting on a reservation train and of following a given travel plan, the irritations from the delays in getting reservations, the embarrassment of changes in committed seat space in ticket offices and on trains. Though these effects are not measurable quantities, they constitute a basic and important part of the segregation-discrimination equation insofar as these special railway services are concerned."

This summary by no means ex-

hausts the list of discomforts, inconveniences, and humiliations documented by Dr. Long and his associates. For example, there are the difficulties that arise when facilities for one race or the other are suddenly overcrowded by an influx of passengers. There is also the problem of "through" coach service—a service seldom available to Negroes under the "Jim Crow" system. While other passengers remain comfortably in their seats as their coach is transferred to another train, Negroes must struggle with baggage, inclement weather, and often long waits in the station in order to change trains.

CONFLICT AND VIOLENCE

Worst of all, there is the ever-present threat of conflict and violence in the segregated situation. Even the best-intentioned conductors are likely to grow touchy and inconsiderate under the strain of preserving rigid separation of the races, under all sorts of harassing conditions. And Negro passengers grow rightfully resentful when they are deprived of dignity and comfort by an arbitrary system, often crudely administered.

Under such conditions, heated disagreements are only to be expected. All too often, local police are called in at this point to enforce the racial codes. Protesting Negro passengers have been arrested, beaten, and even killed in the ensuing controversies. It hardly matters if the Negro involved is within his constitutional rights as an interstate passenger. To a policeman in a small Southern community, he is likely to appear in defiance of state law and local custom and, as such, deserving of no more consideration than a common criminal.

It is to be wondered at that the railroads themselves have been willing to pay so high a price for coach segregation. Certainly uniform treatment of all passengers will greatly simplify their administrative and operating procedures. But, whether they hold this view or not, the recent actions of the Supreme Court has given it the force of law. As the Mitchell case outlawed Pullman segregation and the Henderson case outlawed dining-car segregation, so now the decision in the Chance case has clearly made it unlawful for an interstate railroad to practice segregation on coaches. In one respect, the Chance case went even farther. It established that such segregation is unlawful *even if the separate facilities are equal in every respect.*

Plainly, the railroads and the Interstate Commerce Commission, as the responsible government agency, now have a public duty to eliminate all racial distinctions on interstate trains. A careful reading of "Segregation in Interstate Railway Coach Travel" would be an excellent way for them to start.

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